

MAY 21 2009

Federal Communications Commission  
Office of the Secretary

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of )  
 )  
Universal Service High-Cost Filing Deadlines )  
 )  
PETITION FOR WAIVER OF )  
FILING DEADLINE FOR QUARTERLY )  
INTERSTATE COMMON LINE SUPPORT )  
LINE COUNT REPORT - FORM 525 )

*WC Docket No. 08-71*  
~~EC Docket No. 96-45~~

WorldNet Telecommunications, Inc. ("WorldNet"), by its attorneys and pursuant to Section 1.3 of the Commission's Rules, hereby requests a waiver of the December 30, 2008 deadline for filing the quarterly Interstate Common Line Support ("ICLS") line count report Form 525 with the Universal Service Administrative Company ("USAC") for lines served as of June 30 for 2008.

WorldNet, of Study Area 639008, is a fairly new Eligible Telecommunications Carrier ("ETC"). Its first ICLS Form 525 was filed on October 15, 2007 with USAC and the Commission. WorldNet has never had any problems in filing on time its ICLS line count reports or has ever requested a deadline waiver for late USAC filings. Notwithstanding, by inadvertent internal clerical error, the ICLS line count report that was due on December 30, 2008 was filed on December 31, 2008 – one day late.

On December 31, 2008, WorldNet filed the required Form 525 to both of the required filing destinations: (1) the Commission's Office of the Secretary; and (2) USAC's Washington, DC office. However, it was not until May 6, 2008, that WorldNet realized that it had made a one-day late filing. On May 6, 2009, the USAC High Cost Division informed WorldNet by email that its December 31, 2008 filing was ineffective as it was filed one day late. USAC has also informed WorldNet that its late filing would translate into approximately \$30,000 in lost ICLS support for the period in question, unless WorldNet requests a waiver of the deadline to the Commission and this Commission grants such waiver.

The requested waiver is needed because what appears to be an inadvertent clerical error would eliminate the receipt by WorldNet of approximately \$30,000 of critically needed ICLS to which it would otherwise be entitled during the period in question. Moreover, WorldNet is a comparatively small Competitive Local Exchange Carrier operating in Puerto Rico, a recent ETC and a recent participant of the ICLS program.

Good cause exists for the requested waiver because: (1) WorldNet made material and substantial attempts to comply with all of its ICLS filing requirements for 2008-2009, including its ICLS projection and line count data filings as well as its ICLS certifications; (2) WorldNet made a timely and good faith effort to prepare and submit its annual ICLS certification by the December 30, 2008 deadline, but appears to have been prevented by unanticipated clerical error to file the

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December 30, 2008 line count report by email with the Commission and USAC by the deadline; (3) grant of the requested waiver will have no significant adverse impact upon USAC's administration of the ICLS program; (4) the loss of approximately \$30,000 of ICLS would constitute an excessive penalty for WorldNet and its customers for what was an unintentional one (1) day delay in e-mail delivery; and (5) WorldNet has never filed late a USAC report since it became an ETC and started filing its ICLS line count reports to the Universal Service Fund.

**I. Good Cause Exists for Waiver of the ICLS Line Count Report December 30, 2008 Deadline.**

Section 1.3 of the Rules permits the Commission's rules to be waived for good cause shown. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). In addition, the Commission may take into account considerations of hardship, equity, and the effective implementation of public policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972).

**A. Material and Substantial Compliance Efforts**

The special circumstances supporting grant of the requested waiver begin with the material, substantial and timely efforts made by WorldNet to comply with all of the requirements and filings necessary to qualify for and receive ICLS for the 2008-2009 period.

WorldNet has complied fully and in a timely manner with the ICLS data filing requirements of the Commission's Rules (including the submission of projected common line cost and revenue data, actual common line cost and revenue data, and line counts). WorldNet has not missed any of the USAC ICLS filing deadlines, and is currently up-to-date with respect to all of its ICLS data submission obligations for the 2008-2009 period. Moreover, to assure future compliance and timely filings, WorldNet's management has established a special team with responsibilities for such filings and to supervise regulatory filing deadline requirements.

WorldNet also made a material, substantial, timely and good faith effort to comply with the subject December 30, 2008 ICLS deadline. The Form 525 was completed before December 30, 2008, but by an inadvertent clerical error it was not filed until December 31, 2008.

In sum, since WorldNet became an ETC in 2007 it has made substantial, material, timely and good faith efforts to comply with the ICLS filing requirements and procedures of the Commission and USAC.

## **B. Unforeseen Clerical Error Caused Improper Filing on Due Date**

The Commission has frequently waived deadlines that were missed due to unforeseen and uncontrollable conditions. It has found that policy and equitable considerations, as well as the avoidance of undue hardship, warrant the grant of waivers to allow the acceptance and consideration of late filings in such circumstances. See, for example, *Farmers Mutual Telephone Company*, DA 08-925 (Wireline Compo Bur. April 21, 2008) (annual Section 54.314(d) state certification filing deadline waived to allow Local Switching Support ("LSS") recipient to receive support when confusion between it and the Idaho Public Utility Commission regarding new state ETC requirements resulted in a late-filed certification); *Alliance Communications Cooperative, Inc. and Hills Telephone Company, Inc.*, DA 05-3024 (Wireline Compo Bur. November 22, 2005) (Section 54.30 I(b) LSS deadline waived to accept projected LSS data submission filed four months late due to disruptions caused by corporate reorganizations and employee reassignments); *Smithville Telephone Company*, 19 FCC Rcd 8891 (Wireline Compo Bur. May 18, 2004) (Section 54.301 (b) LSS deadline waived to accept a projected LSS data submission filed four months late due to disruptions caused by the death of the carrier's president and the illness of its regulatory accountant); *Meiricom, Inc., Request for Waiver of Section 27.208(A) of the Commission's Rules*, 13 FCC Rcd 890 (Wireless Tel. Bur. 1998) (waiver of payment deadline when bank error in transmitting payment caused delay); *Application of Fred Farley for Authority to Construct and Operate a Domestic Public Cellular radio Telecommunications Service*, 4 FCC Rcd 4670 (Comm. Carr. Bur. 1989) (waiver of deadline because clerical error caused improper filing on due date).

Here, a clerical error from WorldNet's staff made the Form 525 filing one day late instead of on December 30, 2008, as WorldNet has previously planned. See Attachments (See also, Form 525 Certification which was signed by Sandra Navarro on December 30, 2008). Equity requires that WorldNet's substantial compliance efforts be recognized and that the ICLS Line Count Report's December 30, 2008 deadline be waived in order to avoid the imposition of undue hardship for a wholly unexpected and unplanned one-day delay in the filing of WorldNet's Form 525 to USAC.

## **C. No Adverse Impact on USF Administration**

USAC has received WorldNet's relevant projected common line cost and revenue data and line counts in timely fashion for it to incorporate WorldNet's estimated ICLS funding into its USF contribution and disbursement plans and programs. The relatively brief delay of one day in USAC's receipt of WorldNet's ICLS line count report for December 30, 2008 will not disrupt or delay USAC's administration of the ICLS program or other federal USF programs. Hence, grant of WorldNet's requested waiver will not adversely impact administration of the USF programs.

## **D. Adverse Impact on WorldNet**

In contrast, the loss of the approximately \$30,000 of ICLS to which WorldNet would otherwise be entitled for the period would be a significant blow to WorldNet. Revenue losses of this magnitude are extremely onerous and disruptive for small companies like WorldNet. The loss of approximately \$30,000 of ICLS revenues will also impair the ability of WorldNet to invest in

infrastructure additions and upgrades, thereby reducing the future services and service quality available to its customers.

#### **E. Excessive and Onerous Penalty**

Penalties and forfeitures are not favored by the law, and should be enforced only when they are within both the spirit and letter of the law. *United States v. One Ford Coach*, 307 U.S. 219, 226 (1939). In determining whether penalties and fines are excessive, courts have examined whether they are "so disproportionate to the offense as to shock public sentiment" or "contrary to the judgment of reasonable people concerning what is proper under the circumstances." *Hindt v. State*, 421 A.2d 1325, 1333 (Del. 1980). The imposition of an effective penalty of approximately \$30,000 upon WorldNet for an inadvertent clerical error would be wholly disproportionate to the alleged "offense" and would be deemed "excessive" in the judgment of virtually all reasonable people.

#### **II. Request for Waiver**

WorldNet understands very well the extreme importance of timely data and certification filings by all ETCs, and regrets the one-day delay in filing its December 30, 2008 ICLS line count report. As explained above, WorldNet's delay was caused by an unplanned clerical error.

Section 1.3 of the Commission's rules provides the Commission with discretion to waive application of any of its rules upon showing of good cause. In addition, Section 1.925(b)(3) provides for waiver where it is shown that: (i) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that grant of a waiver would be in the public interest; or (ii) In view of unique or unusual factual circumstances of the instant case, application of the rules would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.

WorldNet takes no issue with the reasonableness of the Commission's rules requiring timely data submissions, and recognizes the importance of compliance with these rules. WorldNet, however, contends the purpose of these rules is to ensure the Commission and USAC are able to properly project, collect, and distribute all universal service mechanisms in a timely and accurate manner. Given that USAC recommended WorldNet to file this petition for waiver, and that there was only a one-day delay in the filing, the lateness should not have unduly hindered USAC's administrative functions.

WorldNet feels it has shown good cause for waiver of this filing deadline under Section 1.3 of the Commission's rules, as well as justification for such a waiver at the Commission's discretion under Section 1.925(b)(3). The waiver would also serve the public interest by allowing WorldNet to receive ICLS support for its quarterly ETC offering.

### III. Conclusion

Good cause, as well as considerations of hardship, equity, and the effective implementation of the Commission's universal service policies, warrant grant of WorldNet's requested waiver of the December 30, 2008 quarterly ICLS line count report deadline. WorldNet has always complied with the critical ICLS revenue, cost and line count requirements and deadlines, and has exerted substantial efforts to comply fully and in good faith with USAC deadlines only to be frustrated by an unexpected clerical error. Whereas grant of the requested waiver will not disrupt or impair USAC's administration of ICLS and other universal service programs, the potential loss or delayed receipt by WorldNet of the approximately \$30,000 of ICLS to which it is otherwise entitled during the quarter of 2008 would impose significant and unwarranted hardships upon it and constitute an excessive and onerous penalty for an unanticipated clerical error e-mail delivery.

Good cause having been shown, the Commission is requested: (1) to waive the December 30, 2008 deadline for filing WorldNet's ICLS line count report to permit USAC to use WorldNet's December 31, 2008 filing and (2) to order USAC to distribute or credit to WorldNet the approximately \$30,000 of ICLS to which WorldNet is otherwise entitled for the applicable quarterly period of the December 30, 2008 ICLS Form 525 filing.

Respectfully submitted,

**WORLDNET TELECOMMUNICATIONS, INC.**

By: 

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Dated: May 14, 2009

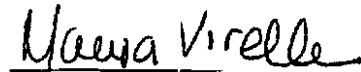
Dated May 13, 2009  
**WORLDNET TELECOMMUNICATIONS, INC.**  
**CC Docket No. 96-45**

**DECLARATION**

I, Maria Virella, hereby declare, under penalty of perjury, as follows:

1. I am the Comptroller and Finance Director of WorldNet Telecommunications, Inc. ("WorldNet").
2. I have reviewed the WorldNet's "Petition for Waiver of filing Deadline for Quarterly ICLS Line Count Report – Form 525," for which this Declaration is part of, and declare that the factual statements and representations therein are true and correct to the best of my knowledge, information and belief.

Signature



**Maria Virella**  
**WorldNet Telecommunications, Inc.**

**Francisco ("Frank") Rullan**

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**From:** Sandra Navarro [snavarro@worldnetpr.com]  
**Sent:** Wednesday, December 31, 2008 6:16 PM  
**To:** HC FILINGS  
**Cc:** Maria Virella; Yesenia Colon  
**Subject:** WorldNet Telecommunication - FCC Form 525 (June 30, 2008)  
**Attachments:** WorldNet ICLS (SAC 639008) 2008-06-30 Form 525.xls; WorldNet (SAC 639008) Form 525 - Cert. of Officer Signed - Period 2008-06-30.pdf

To whom it may concern:

Attached please find the FCC Form 525 for the lines served as June 30, 2008.

If you have any question please contact me.

SAC: 639008

Thanks,

**Sandra I. Navarro | Financial Analyst Manager**

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[Phone] 787.706.2660 • [Fax] 787.749.8887 • [E-mail] [snavarro@worldnetpr.com](mailto:snavarro@worldnetpr.com)

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5/11/2009

FCC Form 525  
High Cost Support Mechanism  
Competitive Carrier Line Count Report

FCC Form 525  
OMB Control No. 3060-0986  
January 2005

# COMPETITIVE CARRIERS HIGH COST DATA SUBMISSION

(1) Quarterly Submission Date:	12/30/08
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(2) USAC Service Provider Identification Number (SPIN):	143015562
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(3) Company Study Area Code: (First time filers leave blank and a Study Area Code will be assigned)	639008
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(4) Study Area Name:	WORLDNET TELECOMMUNICATIONS, INC.
(5) Company Legal Name:	WORLDNET TELECOMMUNICATIONS, INC.
(6) Filer 499 ID:	

Check Box if this is a new address/contact from a previous data submission: ☐

(7) Mailing Address:	CENTRO INTERNACIONAL DE MERCADEO, 90 CARR. 165, SUITE 201, GUAYNABO, PR 00968-8065		
(8) Contact Name:	SANDRA NAVARRO	(9) Title:	FINANCIAL ANALYST MANAGER
(10) Telephone Number:	787-706-2600		
(11) E-mail Address:	snavarro@worldnetpr.com		

Do Not Write in this Area: For Administrator's Use Only
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(12) Mechanism for which you are requesting support:	(13) Lines Reported as of:	(14) Type of Filing		(15) Worksheet to Complete
		Original	Revision	
High Cost Loop Support (HCL)				Complete HCL and LSS
Local Switching Support (LSS)				Complete HCL and LSS
Interstate Common Line Support (ICLS)	6/30/2008	X		Complete ICLS Worksheet
High Cost Model Support (HCM)				Complete HCM Worksheet
Interstate Access Support (IAS)				Complete IAS Worksheet



FCC Form 525  
High Cost Mechanism  
Competitive Carrier Line Count Report

FCC Form 525  
OMB Control No. 3060-0986  
January 2005

TO BE COMPLETED BY THE REPORTING CARRIER, IF THE REPORTING CARRIER IS FILING FCC FORM 525 ON ITS OWN BEHALF:

<b>Certification of Officer or Employee as to the Accuracy of the Data Reported in FCC Form 525, Line Count Report for Competitive Carriers, on Behalf of Reporting Carrier</b>			
I certify that I am an officer or employee of the reporting carrier; my responsibilities include ensuring the accuracy of the actual line count data reported on FCC Form 525; and, to the best of my knowledge, the information reported on this form is accurate.			
Name of Reporting Carrier: <u>WORLDNET TELECOMMUNICATIONS, INC.</u>			
Service Provider Identification Number: <u>143015562</u>			
Signature of authorized officer or employee:			Date: <u>12/30/08</u>
Printed name of authorized officer or employee: <u>SANDRA NAVARRO</u> <i>Sandra Navarro</i>			
Title or position of authorized officer or employee: <u>FINANCIAL ANALYST MANAGER</u>			
Telephone number of authorized officer or employee: ( <u>787</u> ) <u>706</u> - <u>2600</u> ext. <u>2660</u>			
Study Area Code of Reporting CETC	<u>639008</u>	Filing Due Date for this form (mm/dd/yyyy)	<u>12/30/2008</u>
Persons willfully making false statements on this form can be punished by fine or forfeiture under the Communications Act of 1934, 47 U.S.C. §§ 802, 803(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001.			